

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF BURLEIGH

SOUTH CENTRAL JUDICIAL DISTRICT

Nanzile Winmill, as parent and legal
guardian of T.W., a minor child.

Plaintiff,

v.

Walmart Supercenter,

Defendant.

Case No. _____

SUMMONS

THE STATE OF NORTH DAKOTA TO THE ABOVE-NAMED DEFENDANT, WALMART SUPERCENTER, BY AND THROUGH ITS REGISTERED AGENT, C T CORPORATION SYSTEM, 120 W SWEET AVENUE, BISMARCK, ND 58504:

You are hereby summoned and required to appear and defend against the complaint in this action, which is herewith served upon you, by serving upon the undersigned an answer or other proper response within twenty-one (21) days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

Dated this 15 day of March, 2022.

ZUGER KIRMIS & SMITH, PLLP

BY: 

ALYSSA L. LOVAS ID #08387
Attorneys for the Plaintiff
P.O. Box 1695
Bismarck, ND 58502-1695
701-223-2711
alovas@zkslaw.com

EXHIBIT
A

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF BURLEIGH

SOUTH CENTRAL JUDICIAL DISTRICT

Nanzile Winmill, as parent and legal
guardian of T.W., a minor child.

Plaintiff,

v.

Walmart Supercenter,

Defendant.

Case No. _____

COMPLAINT

Plaintiff, Nanzile Winmill, as a parent and legal guardian of T.W., a minor child, as and for their cause of action against Defendant, Walmart Supercenter, allege and state as follows:

PARTIES

1. Plaintiff, Nanzile Winmill, resides at 320 Northview Estates, Lot 19, Washburn, North Dakota 58577.
2. T.W., born 2019, resides with her parents and legal guardians at 320 Northview Estates, Lot 19, Washburn, North Dakota 58577.
3. Defendant Walmart Supercenter is duly qualified and licensed corporation doing business in the State of North Dakota with its principal address identified as 702 Southwest 8th Street, Bentonville, Arizona 72716.
4. Defendant Walmart Supercenter is the owner, co-owner, and/or manager of the premises located at 2717 Rock Island Place, Bismarck, ND 58504.
5. Defendant Walmart Supercenter's registered agent for service of process is C T Corporation System, 120 W Sweet Avenue, Bismarck, North Dakota 58504

JURISDICTION AND VENUE

6. The Court has jurisdiction over the Defendant as it is authorized to conduct business in North Dakota at its 2717 Rock Island Place, Bismarck, ND 58504 location.

7. The personal injury giving rise to this action occurred in Bismarck, Burleigh County, North Dakota making venue appropriate.

GENERAL ALLEGATIONS

8. Plaintiff adopts by reference the foregoing paragraphs as if fully set forth herein

9. At all pertinent times, Defendant owned, managed, possessed, controlled, and/or operated the Walmart Supercenter located at 2717 Rock Island Place in Bismarck, North Dakota.

10. Upon information and belief, Defendant, through various advertising media, solicits the business of individuals, including Plaintiff, and invites all members of the general public to its premises for the purpose of browsing their store for items to purchase. In order to facilitate such purchases, Defendant provides patrons, including Plaintiff, with shopping carts in order to collect the items patrons wish to purchase.

11. On or about November 4, 2021, Nanzile Winmill was a patron at said Walmart Supercenter. On that occasion, Nanzile Winmill utilized one of Defendant's shopping carts in order to collect items she chose to purchase.

12. T.W. and her older brother accompanied their mother, Nanzile Winmill. T.W. and her brother were placed and buckled into a double seater shopping cart similar to the cart pictured in Exhibit A to the Complaint.

13. While utilizing the shopping cart provided by Defendant, suddenly and without warning, the seatbelt broke, causing T.W. to fall out of the cart onto the concrete floor, sustaining injuries.

14. As a direct and proximate result of the aforementioned dangerous condition, T.W. sustained serious and severe injuries to her person.

15. At all times relevant hereto, Nanzile Winmill acted in a careful, prudent, and cautious manner in her use of the shopping cart.

LIABILITY

16. Plaintiff adopts by reference the foregoing paragraphs as if fully set forth herein.

17. As a proprietor inviting persons onto its premises and encouraging invitees to utilize Defendant's shopping carts to facilitate purchases, Defendant owed a duty to the invitees, including Plaintiffs, to use ordinary and reasonable care under the circumstances.

18. Defendant breached its duty to the Plaintiff in each of, but not limited to, the following ways:

- a. Failure to maintain the shopping carts with the degree of care and caution required of a reasonable and prudent person or party under similar circumstances;
- b. Failure to properly maintain the premises in a reasonable and safe condition;
- c. Failure to inspect the shopping carts for dangerous condition in a timely manner;
- d. Failure to remove and/or repair the shopping carts thereby allowing a dangerous condition to exist;
- e. Failure to enact and enforce policies and procedures to maintain the shopping carts in a reasonable and safe condition; and
- f. Failure to timely warn patrons, including Plaintiff, of the dangerous condition.

19. Defendant created a dangerous condition by failing to maintain the shopping carts in a manner that threatened the health and safety of their guests, including Plaintiff.

20. In the alternative, Defendant knew of the dangerous condition and failed to warn Plaintiff.

21. In the alternative, Defendant should have discovered and corrected or adequately warned of the dangerous condition before Plaintiff was exposed to it.

22. As a direct and proximate result of the negligent actions of the Defendant, through its agents, servants, and employees described above, T.W. fell from the shopping cart to the ground causing T.W. to suffer injuries.

23. As a direct and proximate result thereof, T.W. suffered, is suffering, and will continue to suffer severe pain and injuries to her head, body and limbs, as well as severe and protracted shock to her nervous system, all of which have caused, is causing, and will continue to cause her great pain and mental anguish

24. As a further direct result of the negligence of the Defendant, Walmart Supercenter, through its agents, servants, and employees, the Plaintiff has been forced to expend large sums of money for the medical care and treatment of the aforesaid injuries.

25. The injuries, damages and other losses were caused by reason of the negligence of the Defendant, Walmart Supercenter, without any negligence on the part of the Plaintiff contributing thereunto.


WHEREFORE, Plaintiff, Nanzile Winmill, as parent and legal guardian of T.W., a minor child, prays for judgment against the Defendant as follows:

- a. For recovery of reasonable damages in an amount in excess of \$50,000.00 for past and future pain, inconvenience, physical impairment, mental anguish and other non-pecuniary damages as allowed by North Dakota law.
- b. For recovery for past and future medical expenses.
- c. Recovery of costs and disbursements of this action.
- d. For such other and further relief as the Court may deem just and equitable.

A TRIAL BY JURY IS HEREBY DEMANDED.

Dated this 15 day of March, 2022.

ZUGER KIRMIS & SMITH, PLLP

BY: 
ALYSSA L. LOVAS ID #08387
Attorneys for the Plaintiff
P.O. Box 1695
Bismarck, ND 58502-1695
701-223-2711
alovas@zkslaw.com



**Service of Process
Transmittal**

03/17/2022

CT Log Number 541245906

TO: KIM LUNDY- EMAIL
Walmart Inc.
GLOBAL GOVERNANCE/CENTRAL INTAKE, 2914 SE I STREET MS#0200
BENTONVILLE, AR 72712-3148

RE: Process Served in North Dakota

FOR: Wal-Mart Supercenter (Assumed Name) (Domestic State: DE)
WALMART INC. (True Name)

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTION: Re: Winmill Nanzile, as parent and legal guardian of T.W., a minor child // To: WALMART INC.

DOCUMENT(S) SERVED: Summons, Complaint

COURT/AGENCY: Burleigh County District Court, South Central Judicial Division, ND
Case # None Specified

NATURE OF ACTION: Personal Injury - Failure to Maintain Premises in a Safe Condition - 11/04/2021, at 2717 Rock Island Place in Bismarck, North Dakota 58504

ON WHOM PROCESS WAS SERVED: C T Corporation System, Bismarck, ND

DATE AND HOUR OF SERVICE: By Certified Mail on 03/17/2022 postmarked on 03/15/2022

JURISDICTION SERVED : North Dakota

APPEARANCE OR ANSWER DUE: Within 21 days after service, exclusive of the day of service

ATTORNEY(S) / SENDER(S): Alyssa L. Lovas
Zuger Kirmis & Smith, PLLP
P.O. Box 1695
Bismarck, ND 58502
701-223-2711

ACTION ITEMS: CT has retained the current log, Retain Date: 03/17/2022, Expected Purge Date: 03/22/2022

Image SOP

REGISTERED AGENT ADDRESS: C T Corporation System
120 W Sweet Ave.
Bismarck, ND 58504
877-564-7529
MajorAccountTeam2@wolterskluwer.com

The information contained in this Transmittal is provided by CT for quick reference only. It does not constitute a legal opinion, and should not otherwise be relied on, as to the nature of action, the amount of damages, the answer date, or any other information contained in the included documents. The recipient(s) of this form is responsible for reviewing and interpreting the included documents and taking appropriate action, including consulting with its legal and other advisors as necessary. CT disclaims all liability for the information contained in this form, including for any omissions or inaccuracies that may be contained therein.